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|---|---|
| LONSBERRY, HUNTER B | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/513,964 | MEYERS, STEPHAN | |
| | Examiner | Art Unit | |
| | Hunter B. Lonsberry | 2611 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *26 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1,2,4-6,10,11,14-18,20,22,23,25-36 and 39-78* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 2, 4-6, 10, 11, 14-18, 20, 22, 23, 25-36, 39-62,64-71 and 73-78* is/are rejected.

7)☒ Claim(s) *63 and 72* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

### *Response to Amendment*

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2, 4, 5, 14-16, 41-53, 62, 65, 68-71, and 76-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,192,340 to Abecassis and Musicmatch Jukebox software in view of U.S. Patent 6,470,378 to Tracton and U.S. Patent 6,167,251 to Segal.

Regarding claims 1 and 69, Abecassis discloses a method of generating a virtual broadcast on a multimedia player (Figures 2, 7-10), in which music content and stock information (column 14, lines 45-65, column 20, lines 24-36) is downloaded to the player device from a web page in any order or may be stored locally (column 14, lines 45-65, column 22, lines 42-52); user preferences, as well as the Musicmatch AUTODJ software (Column 15, line 20-column 21, line 67, Musicmatch Webpage) is used to automatically create a playlist according to a selected algorithm on the virtual broadcast device, a playlist may be generated prior to the acquisition of new music, a user may establish preferences 942 prior

to connecting to an online website in order to influence the organization of a playlist (column 16, lines 40-46, column 16, line 26-31) a multimedia player on the device may then assemble the playlist (column 27, lines 34-60). As the audio player of Abecassis may assemble the playlist, Abecassis allows the device to be disconnected from the website during the step of organizing.

Abecassis and the Musicmatch Software do not disclose a virtual broadcast device, which is a phone, but instead use a portable device or a PC. Abecassis and Musicmatch do not disclose downloading all of the content and other information and then organizing the data.

Tracton discloses the use of a browser enabled mobile phone with JavaScript capability which connects to the Internet, a server is able to detect the type of processor in a client device and transmits to the client device scalable levels of content, including MPEG video, appropriate to the capabilities of the processor in a client device, additionally custom page data or targeted advertising may be sent to a specific device, each device may include a user profile (column 5, line 13-column 8, line 55, line 63-column 9, line19).

Segal discloses a cellular telephone which downloads stock information, music and news, and allows the user to play back the data while the cell phone is not actively connected to the network thus enabling a user to avoid additional account charges (column 29, line 64-column 30, line 37).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Abecassis and the Musicmatch Software to download content to a mobile phone as taught by Tracton thereby enabling a user to view a

virtual broadcast at any location, and to modify the combination of Abecassis, Musicmatch and Tracton, to download all of the data and disconnect from the server as taught by Segal, thus avoiding the cost of debited airtime charges a user would receive while listening to stored audio.

Regarding claim 2, Abecassis discloses playing the virtual broadcast on the virtual broadcast device (column 13, line 62-column 14, line 17).

Regarding claims 3 and 4, Abecassis discloses that the device may connect intermittently to a website to download data and may download data based on user preferences (column 14, lines 45-65, column 16, lines 19-67).

Regarding claim 5, Abecassis discloses a radio on demand system in which informational content and advertisements are seamlessly integrated with a users personal audio library and played back according to a user's preferences (column 17, line 25-column 19, line 37).

Regarding claim 14, Abecassis discloses a method of generating a virtual broadcast on a multimedia player (Figures 2, 7-10), in which music content and stock information (column 14, lines 45-65, column 20, lines 24-36) is downloaded to the player device from a satellite or cable system in any order or may be stored locally (column 14, lines 45-65, column 16, lines 31-46, column 22, lines 42-52); user preferences, as well as the Musicmatch AUTODJ software (Column 15, line 20-column 21, line 67, Musicmatch Webpage) is used to automatically create a playlist according to a selected algorithm on the virtual broadcast device, a playlist may be generated prior to the acquisition of new music, a user may establish preferences 942 prior to connecting to an online website in order

to influence the organization of a playlist (column 16, lines 40-46, column 16, line 26-31) a multimedia player on the device may then assemble the playlist (column 27, lines 34-60). As the audio player of Abecassis may assemble the playlist, Abecassis allows the device to be disconnected from the website during the step of organizing.

Abecassis and the Musicmatch Software do not disclose a virtual broadcast device, which is a phone, but instead use a portable device or a PC, or downloading all content and then organizing the data.

Tracton discloses the use of a browser enabled mobile phone with JavaScript capability which connects to the Internet, a server is able to detect the type of processor in a client device and transmits to the client device scalable levels of content, including MPEG video, appropriate to the capabilities of the processor in a client device, additionally custom page data or targeted advertising may be sent to a specific device, each device may include a user profile (column 5, line 13-column 8, line 55, line 63-column 9, line19).

Segal discloses a cellular telephone which downloads stock information, music and news, and allows the user to play back the data while the cell phone is not actively connected to the network thus enabling a user to avoid additional account charges (column 29, line 64-column 30, line 37).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Abecassis and the Musicmatch Software to download content to a mobile phone as taught by Tracton thereby enabling a user to view a virtual broadcast at any location, and to modify the combination of Abecassis,

Musicmatch and Tracton, to download all of the data and disconnect from the server as taught by Segal, thus avoiding the cost of debited airtime charges a user would receive while listening to stored audio.

Regarding claim 15, see claim 2.

Regarding claim 16, see claim 5.

Regarding claim 41, Tracton, Abecassis and Musicmatch disclose a mobile phone, which downloads content. Tracton, Abecassis and Musicmatch do not disclose that the data downloaded from the website is selected by the website operator based on user preferences. The examiner takes official notice that selection of content on a website by an administrator based on user preference is well known in the art. Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Tracton, Abecassis and Musicmatch to enable a admin to best select the available content on a website based off of user preferences.

Regarding claim 42, Tracton, Abecassis and Musicmatch disclose a mobile phone, which downloads content. Tracton, Abecassis and Musicmatch do not disclose the user utilizing the website to store and download data. The examiner takes official notice that utilizing a web server to store and download user data is well known in the art, for example http://www.geocities.com provides free web space for storage of user files and maybe be downloaded from by any web accessible device. Therefore it would have been obvious to one skilled in the art at the time of invention to modify Tracton, Abecassis and Musicmatch to

enable a user to select the information to be downloaded and stored on a website thus enabling a user to select content they are the most interested in.

Regarding claim 43, Abecassis discloses in Figure 4, a number of networked devices to which the multimedia player may be connected and on which the media may be played (column 12, lines 7-63).

Regarding claims 44-45, Abecassis discloses that a user may input a user id and password when utilizing the media player (column 19, lines 60-61). Abecassis, Musicmatch and Tracton do not disclose a user logging onto a website. Abecassis inherently enables a user to select a format to download information that would be recognizable by a broadcast device otherwise the downloaded content would be unusable by the device. The examiner takes official notice that logging onto a website after connecting is well known in the art. Therefore it would have been obvious to one skilled in the art at the time of invention to log onto a website after connecting so that personalized content may be delivered to a particular user.

Regarding claim 46, Abecassis discloses that user preferences may be stored on the portable device (column 19, lines 31-37).

Regarding claim 47, Abecassis discloses that a user may select the synthesized voice (column 18, lines 14-23).

Regarding claim 48, Abecassis discloses that advertisements may be downloaded. Abecassis, Musicmatch and Tracton do not disclose whether a user may select whether or not advertisements may be downloaded. The examiner takes official notice that a user may select whether or not they wish advertising to

be delivered to them. Therefore it would have been obvious to one skilled in the art at the time of invention to modify Abecassis, Musicmatch and Tracton to enable a user to select whether or not advertisements should be downloaded so that a user would only receive content of interest to them.

Regarding claims 49-50, Abecassis discloses that the playlists are responsive to external triggers such as time of day (column 16, lines 1-7).

Regarding claim 51, Abecassis discloses that a user may select the synthesized voice for content delivered (column 18, lines 14-23).

Regarding claim 52-53, Abecassis discloses that user may input preferences for content to be delivered (column 17, lines 56-column 18, line 14). The examiner takes official notice that utilizing an Internet connection to rate broadcasted content is well known in the art, for example "the box" music video channel. Therefore it would have been obvious to one skilled in the art at the time of invention to modify Abecassis, Musicmatch, Tracton and Segal to enable a user to rate the broadcasted content in order to deliver only the content a user is interested in.

Regarding claim 62, Segal and Tracton disclose downloading content via a wireless phone.

Abecassis, Musicmatch, Tracton and Segal do not disclose downloading at bulk bandwidth rates.

The examiner takes official notice that downloading content at high speed via a wireless connection is well known in the art.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination Abecassis, Musicmatch, Tracton and Segal to download the content at a high rate of speed, to allow a user to enjoy the content more quickly.

Regarding claims 65, Abecassis discloses a method of generating a virtual broadcast on a multimedia player (Figures 2, 7-10), in which music content and stock information (column 14, lines 45-65, column 20, lines 24-36) is downloaded to the player device from a web page.

Abecassis, Musicmatch, Tracton and Segal do not disclose discarding dated "other information" after a period of time.

The examiner takes official notice that discarding dated information after a period of time to free up storage space is well known in the art.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Abecassis, Musicmatch, Tracton and Segal to discard dated information to free up storage space, thus enabling the device to have space to download new stock or news information.

Regarding claims 68 and 76, Tracton discloses a audiovisual enabled cell phone.

Abecassis, Musicmatch, Tracton and Segal do not disclose uploading a user's listening history to provide demographic information to advertisers.

The examiner takes official notice that providing demographic information about a user based off their media viewing choices is well known in the art.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Abecassis, Musicmatch, Tracton and Segal to transmit a log of a user's listening history to provide demographic information to advertisers thus enabling an advertiser to more accurately provide ads that a user would respond to and find interesting.

Regarding claims 70 and 71, Abecassis discloses that a user may select the synthesized voice (column 18, lines 14-23).

Abecassis, Musicmatch, Tracton and Segal do not disclose pre-recording the other data in a simulated voice.

The examiner takes official notice that pre-recording data with a simulated voice is well known in the art.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Abecassis, Musicmatch, Tracton and Segal to pre-record the other data in a simulated voice, thus reducing the need for processing power on the receiver.

Regarding claims 77 and 78, Tracton discloses a audiovisual enabled cell phone.

Abecassis, Musicmatch, Tracton and Segal do not disclose displaying news headlines in a separate area from the virtual broadcast.

The examiner takes official notice that displaying news information in a separate area from the other content is well known in the art, for example the PointCast computer application receives push data from the Internet and then

displays that data, including news, in a separate location from other data on a user's display device.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Abecassis, Musicmatch, Tracton and Segal to display news headlines in a separate display area, thus enabling a user to multitask by watching a program of interest and keep abreast of the latest news.

Claims 6, 10, 11 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,192,340 to Abecassis and Musicmatch Jukebox software in view of U.S. Patent to Tracton and U.S. Patent 6,167,251 to Segal in further view of U.S. Patent 6,199,076-B1 to Logan.

Regarding claims 6 and 17, Abecassis discloses downloading content and integrating the downloaded content with locally stored items. Abecassis does not disclose organizing the contents with a plurality of introductions related to the content or the use of a virtual broadcast device, which is a phone, instead, Abecassis/Musicmatch use a portable device or a PC. Tracton discloses the use of a browser enabled mobile phone with JavaScript capability which connects to the Internet, a server is able to detect the type of processor in a client device and transmits to the client device scalable levels of content, including MPEG video, appropriate to the capabilities of the processor in a client device, additionally custom page data or targeted advertising may be sent to a specific device, each device may include a user profile (column 5, line 13-column 8, line 55, line 63-column 9, line19). Logan discloses a method in which the content downloaded to

the device is made up of a number of items, introductions for the content to be broadcasted on the device is downloaded, and part of the program organizing process includes introducing each program with a related introduction (column 30, lines 1-9, column 2, 19-24). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Abecassis/Musicmatch/Segal to transmit content to a mobile phone and include the introductions of Logan thereby enabling a user to know what song there were about to hear without looking at a display device.

Regarding claim 10, Logan discloses that the user can rate a plurality of songs by assigning a weighted priority value (column 9, lines 15-25).

Regarding claim 11, Logan discloses that after a program has finished playing, the device connects to the website and uploads the user priority given to the program and downloads additional content and other information based upon the user ranking (column 9, lines 30-50).

Regarding claim 18, Abecassis discloses that the device may be portable, (Figure 2, column 13, lines 62-column 14, line 7).

Regarding claims 66, 67, 74 and 75, Logan discloses that after a program has finished playing, the device connects to the website and uploads the user priority given to the program and downloads additional content and other information based upon the user ranking (column 9, lines 30-50).

Abecassis/Musicmatch/Segal and Logan do not disclose playing higher ranked songs more often and replacing lower ranked songs with new songs.

The examiner takes official notice that playing higher ranked songs more often and replacing lower ranked songs with new songs is well known in the art , for example, the broadcast radio industry plays more popular songs more often, and replaces less requested songs with new songs.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Abecassis/Musicmatch/Segal and Logan to playing higher ranked songs more often and replacing lower ranked songs with new songs to conform with user tastes and expose a user to new musical choices.

Claims 20, 22, 23, 25, 36, 40, 54-58 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,199,076-B1 to Logan in view of U.S. Patent 6,192,340 to Abecassis and Musicmatch Jukebox software, U.S. Patent 6,470,378 to Tracton and U.S. Patent 6,167,251 to Segal in further view of U.S. Patent 6,188,398-B1 to Collins-Rector.

Regarding claim 20, Logan discloses a method for generating a virtual broadcast on a laptop through the following method: a number of news programs and related data are downloaded and stored on the laptop from a website in any order (column 30 lines 37-42, column 6, lines 51-67), the content and related data is organized on the device according to an algorithm stored on the device (column 8, lines 39-53), the device may reconnect and download additional news stories from the website (column 9, lines 51-62) and generate an updated broadcast which includes the new content. Logan does not disclose that the programs played on the device are television broadcast video files and

organizing the virtual broadcast according to an algorithm on the device and the use of a mobile phone which connects to a website or disconnecting from a server after all the data is downloaded. Abecassis and the Musicmatch software disclose the use of an algorithm to create a playlist that is stored on the virtual broadcast device (column 13, lines 23-43, column 15, lines 27-67, Musicmatch webpage), a playlist may be generated prior to the acquisition of new music, a user may establish preferences 942 prior to connecting to an online website in order to influence the organization of a playlist (column 16, lines 40-46, column 16, line 26-31) a multimedia player on the device may then assemble the playlist (column 27, lines 34-60). As the audio player of Abecassis may assemble the playlist, Abecassis allows the device to be disconnected from the website during the step of organizing. Tracton discloses the use of a browser enabled mobile phone with JavaScript capability which connects to the Internet, a server is able to detect the type of processor in a client device and transmits to the client device scalable levels of content, including MPEG video, appropriate to the capabilities of the processor in a client device, additionally custom page data or targeted advertising may be sent to a specific device, each device may include a user profile (column 5, line 13-column 8, line 55, line 63-column 9, line19). Collins-Rector teaches that frames capable web browser utilizing a QuickTime or similar browser plug in may be used to handle video information for display to a user (column 2, line 63-column 3, line 6). Segal discloses a cellular telephone which downloads stock information, music and news, and allows the user to play back the data while the cell phone is not actively connected to the network thus

enabling a user to avoid additional account charges (column 29, line 64-column 30, line 37). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Logan to connect to the internet with a mobile phone browser as taught by Tracton utilize a web browser containing a QuickTime browser plugin, as taught by Collins-Rector, and to run the playlist creation program locally as taught by Musicmatch and Abecassis, to view video encoded news stories in order to provide a user with a customized broadcast tailored to their specific interests and allow a user to view news items and to download all of the data and disconnect from the server as taught by Segal, thus avoiding the cost of debited airtime charges a user would receive while listening to stored audio.

Regarding claim 22, Logan discloses that the broadcast device may use a web browser such as Netscape Navigator or Microsoft Internet Explorer which allow a user to view news as well as other information at the same time on different portions of the screen (column 10, lines 7-11).

Regarding claim 23, Logan discloses a method for generating a virtual broadcast on a device via the following method: receiving a cellular radio or broadcast satellite signal (column 7, lines 44-49), the signal comprising audio of news and other data to be integrated in a virtual broadcast (column 8, lines 29-41, column 30, lines 37-42), organizing the content and other data on the device in a particular order for the virtual broadcast according to a selected algorithm provided on the virtual broadcast device (column 8, lines 39-53), periodically

downloading an additional news story from a website and generating an updated virtual broadcast that includes the additional news story (column 9, lines 51-62). Logan does not disclose that the device can play television video encoded images on the laptop or organize the content according to a selected algorithm on the broadcast device, or connecting to a website with a mobile phone, or performing the sorting algorithm after all data is downloaded. Abecassis and the Musicmatch software disclose the use of an algorithm to create a playlist that is stored on the virtual broadcast device (column 13, lines 23-43, column 15, lines 27-67, Musicmatch webpage), a playlist may be generated prior to the acquisition of new music, a user may establish preferences 942 prior to connecting to an online website in order to influence the organization of a playlist (column 16, lines 40-46, column 16, line 26-31) a multimedia player on the device may then assemble the playlist (column 27, lines 34-60). As the audio player of Abecassis may assemble the playlist, Abecassis allows the device to be disconnected from the website during the step of organizing. Tracton discloses the use of a browser enabled mobile phone with JavaScript capability which connects to the Internet, a server is able to detect the type of processor in a client device and transmits to the client device scalable levels of content, including MPEG video, appropriate to the capabilities of the processor in a client device, additionally custom page data or targeted advertising may be sent to a specific device, each device may include a user profile (column 5, line 13-column 8, line 55, line 63-column 9, line19). Collins-Rector teaches that a frames capable web browser utilizing a QuickTime or similar browser plug in may be used to handle video information for display to

a user (column 2, line 63-column 3, line 6). Segal discloses a cellular telephone which downloads stock information, music and news, and allows the user to play back the data while the cell phone is not actively connected to the network thus enabling a user to avoid additional account charges (column 29, line 64-column 30, line 37). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Logan to connect to the internet with a mobile phone browser as taught by Tracton utilize a web browser containing a QuickTime browser plugin, as taught by Collins-Rector, and to run the playlist creation program locally as taught by Musicmatch and Abecassis, to view video encoded news stories in order to provide a user with a customized broadcast tailored to their specific interests and allow a user to view news items, and to download all of the data and disconnect from the server as taught by Segal, thus avoiding the cost of debited airtime charges a user would receive while listening to stored audio.

Regarding claim 25, Logan discloses that the broadcast device may use a web browser such as Netscape Navigator or Microsoft Internet Explorer which allow a user to view news as well as other information at the same time on different portions of the screen (column 10, lines 7-11).

Regarding claim 36, Logan discloses that the device may be a laptop capable of displaying a video image (column 4, 34-41). The combined system of Abecassis, Musicmatch and Logan do not disclose the ability to play videos on the device. Collins-Rector teaches that a frames capable web browser utilizing a QuickTime or similar browser plug in may be used to handle video information for

display to a user (column 2, line 63-column 3, line 6). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combined system of Abecassis, Musicmatch and Logan to include a web browser containing a QuickTime browser plug in to view video encoded news stories and other content in order to provide a user with a customized broadcast tailored to their specific interests.

Regarding claim 40, Logan discloses a device in figure 1, for generating a virtual broadcast comprised of: a memory (storage unit 107), a modem 115 for inputting data comprised of news and other information to be integrated into the virtual broadcast and stored in storage unit 107(column 30, lines 31-35), Client CPU 105 which organizes the news stories and other information into a particular order for the virtual broadcast by actuating a specific algorithm provided on the device (column 9, lines 15-30), means for inputting additional news stories and generating an updated virtual broadcast by including an additional news story (column 9, lines 51-62). Logan does not disclose integrating downloaded video content from a website as part of a virtual broadcast and the use of an algorithm on the broadcast device for organizing data, as well as a using a mobile phone to connect to the internet. Abecassis and the Musicmatch software disclose the use of an algorithm to create a playlist that is stored on the virtual broadcast device (column 13, lines 23-43, column 15, lines 27-67, Musicmatch webpage), a playlist may be generated prior to the acquisition of new music, a user may establish preferences 942 prior to connecting to an online website in order to influence the organization of a playlist

(column 16, lines 40-46, column 16, line 26-31) a multimedia player on the device may then assemble the playlist (column 27, lines 34-60). As the audio player of Abecassis may assemble the playlist, Abecassis allows the device to be disconnected from the website during the step of organizing. Tracton discloses the use of a browser enabled mobile phone with JavaScript capability which connects to the Internet, a server is able to detect the type of processor in a client device and transmits to the client device scalable levels of content, including MPEG video, appropriate to the capabilities of the processor in a client device, additionally custom page data or targeted advertising may be sent to a specific device, each device may include a user profile (column 5, line 13-column 8, line 55, line 63-column 9, line19). Collins-Rector teaches that a frames capable web browser utilizing a QuickTime or similar browser plug in may be used to handle video information for display to a user (column 2, line 63-column 3, line 6).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Logan to use a mobile phone with a browser as taught by Tracton utilize a web browser containing a QuickTime browser plugin, as taught by Collins-Rector, and to run the playlist creation program locally as taught by Musicmatch and Abecassis, to view video encoded news stories in order to provide a user with a customized broadcast tailored to their specific interests and to download all of the data and disconnect from the server as taught by Segal, thus avoiding the cost of debited airtime charges a user would receive while listening to stored audio.

Regarding claim 54, Abecassis discloses that the device may periodically connect to the Internet to retrieve more information (column 16, lines 31-46).

Regarding claim 55, Logan discloses the use of a laptop. Tracton, Collins-Rector, Musicmatch and Abecassis do not disclose displaying content in a portion of the display other than the content of the virtual broadcast. The examiner takes official notice that the use of a framed web browser, which displays content and a media player in different portions of the browser, are well known in the art. Therefore it would have been obvious to one skilled in the art at the time of invention to modify Tracton, Collins-Rector, Musicmatch and Abecassis to utilize a web browser to display content in a separate frame, thus increasing the amount of information available for display.

Regarding claim 56-57, Abecassis discloses that user may input preferences for content to be delivered (column 17, lines 56-column 18, line 14). The examiner takes official notice that utilizing an Internet connection to rate broadcasted content is well known in the art, for example "the box" music video channel. Therefore it would have been obvious to one skilled in the art at the time of invention to modify Abecassis, Musicmatch, Tracton and Collins-Rector to enable a user to rate the broadcasted content in order to deliver only the content a user is interested in.

Regarding claim 58, Logan discloses the use of a laptop. Abecassis, Musicmatch, Tracton and Collins-Rector do not disclose capturing a TV broadcast. The examiner takes official notice that the use of a TV tuner card/capture board to display over the air broadcasts is well known in the art.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Abecassis, Musicmatch, Tracton and Collins-Rector to utilize a TV tuner/capture board in order to receive over the air TV broadcasts and display them at a desired time.

Regarding claim 61, Logan discloses a display 118 in Figure 1. Logan, Abecassis, Musicmatch, and Tracton do not disclose a first display for showing information related to the content being displayed and menu selections and a second display for displaying video content. The examiner takes official notice that the use of two displays, one which displays video content, such as a monitor, and a second display which displays menu selections and related content, such as a DVD chapter display are well known in the art. Therefore it would have been obvious to one skilled in the art at the time of invention to modify Logan, Abecassis, Musicmatch, and Tracton to include two displays as to maximize the amount of information, which may be displayed

Claims 26-35, 39, and 59-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,199,076-B1 to Logan in view of U.S. Patent 6,192,340 to Abecassis and the Musicmatch Jukebox software in further view of U.S. Patent 6,167,251 to Segal in further view of U.S. Patent 6,470,378 to Tracton.

Regarding claim 26, Logan discloses a device in figure 1, for generating a virtual broadcast comprised of: a memory (storage unit 107), a modem 115 for inputting data comprised of content and other information to be integrated into

the virtual broadcast and stored in storage unit 107, Client CPU 105 which organizes the data into a particular order for the virtual broadcast by actuating a specific algorithm provided on the device (column 9, lines 15-30). Logan does not disclose the algorithm being run on the virtual broadcast device, or the use of a mobile phone to connect to a website or disconnecting from a server after all of the content is downloaded. Abecassis and the Musicmatch software disclose the use of an algorithm run on the virtual device to create a playlist that is stored on the virtual broadcast device (column 13, lines 23-43, column 15, lines 27-67, Musicmatch webpage), a playlist may be generated prior to the acquisition of new music, a user may establish preferences 942 prior to connecting to an online website in order to influence the organization of a playlist (column 16, lines 40-46, column 16, line 26-31) a multimedia player on the device may then assemble the playlist (column 27, lines 34-60). As the audio player of Abecassis may assemble the playlist, Abecassis allows the device to be disconnected from the website during the step of organizing. Tracton discloses the use of a browser enabled mobile phone with JavaScript capability which connects to the Internet, a server is able to detect the type of processor in a client device and transmits to the client device scalable levels of content, including MPEG video, appropriate to the capabilities of the processor in a client device, additionally custom page data or targeted advertising may be sent to a specific device, each device may include a user profile (column 5, line 13-column 8, line 55, line 63-column 9, line19). Segal discloses a cellular telephone which downloads stock information, music and news, and allows the user to play back the data while the cell phone is not

actively connected to the network thus enabling a user to avoid additional account charges (column 29, line 64-column 30, line 37). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Logan to include running the algorithm on the virtual broadcast device as taught by Abecassis/Musicmatch and utilizing a mobile phone which connects to the internet to download content thereby enabling the user to utilize the virtual broadcast device in a mobile environment and freeing the user from having to connect to a server via a transmission line and disconnect from the server as taught by Segal, thus avoiding the cost of debited airtime charges a user would receive while listening to stored audio.

Regarding claim 27, Logan discloses that the data for virtual broadcast includes advertising and a means of organizing the advertising into the virtual broadcast (column 6, lines 60-67, column 8, lines 39-44).

Regarding claim 28, Logan discloses in figure 1 a device for playing the generated virtual broadcast.

Regarding claim 29, Logan discloses means for the device to obtain data from a website (column 5, lines 47-53).

Regarding claim 30, Logan discloses means for uploading user preferences for the data including data type to the website (column 8, lines 12-24, 45-53).

Regarding claim 31, Logan discloses that the content comprises a number of items and the device will upload to a website, after playing an initial virtual

broadcast, user rankings of the items played for determining future data to be downloaded from the website to the device (column 9, lines 11-44).

Regarding claim 32, Logan discloses the portions of the data can be deleted on the device (column 9, lines 11-12).

Regarding claim 33, Logan discloses that a user can give higher priority to certain programs (column 9, lines 15-25).

Regarding claim 34, Logan discloses that the data may be obtained from a cellular radio or broadcast satellite signal (column 7, lines 44-47),

Regarding claim 35, Logan discloses that the virtual broadcast may be comprised of music as well as introductions for the music (column 30, lines 1-9, 31-35).

Regarding claim 39, Logan discloses that more than one program can be processed at the same time (column 7, lines 24-31).

Regarding claims 59-60, Logan discloses a display 118 in Figure 1. Logan, Abecassis, Musicmatch, and Tracton do not disclose a first display for showing information related to the content being displayed and menu selections and a second display for displaying video content. The examiner takes official notice that the use of two displays, one which displays video content, such as a monitor, and a second display which displays menu selections and related content, such as a DVD chapter display are well known in the art. Therefore it would have been obvious to one skilled in the art at the time of invention to modify Logan, Abecassis, Musicmatch, and Tracton to include two displays as to maximize the amount of information, which may be displayed

Claims 64 and 73 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,192,340 to Abecassis and Musicmatch Jukebox software in view of U.S. Patent 6,470,378 to Tracton and U.S. Patent 6,167,251 to Segal in further view of U.S. Patent 6,650,902 to Richton.

Regarding claim 64, Tracton and Segal disclose cell phones, which download AV content.

Abecassis, Musicmatch, Tracton and Segal do not disclose location-based services.

Richton discloses a wireless mobile unit 201 in figures 3-5, that utilizes location based services to transmit advertisements or locations of interest to a user based on their position (column 3, lines 9-62, column 15, lines 41-65).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Abecassis, Musicmatch, Tracton and Segal to utilize location based services as taught by Richton in order to provide advertisements that would be more interesting and relevant to the user's location thus making a purchase by a user more likely.

Regarding claim 73, Tracton and Segal disclose cell phones, which download AV content. Logan discloses that an old program may be deleted from the plurality of news stories stored on the device (column 9, lines 11-12, column 28, lines 15-23).

Abecassis, Musicmatch, Tracton and Segal do not disclose location based services or discarding dated information.

Richton discloses a wireless mobile unit 201 in figures 3-5, that utilizes location based services to transmit advertisements or locations of interest to a user based on their position (column 3, lines 9-62, column 15, lines 41-65).

The examiner takes official notice that discarding dated information after a period of time to free up storage space is well known in the art.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Abecassis, Musicmatch, Tracton and Segal to utilize location based services as taught by Richton in order to provide advertisements that would be more interesting and relevant to the user's location thus making a purchase by a user more likely and discard dated information to free up storage space, thus enabling the device to have space to download new stock, news, or advertising information.

***Allowable Subject Matter***

Claims 63 and 72 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 703-305-3234. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax

phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HBL

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PRIMARY EXAMINER